

#41

Docket No. 4758-4101US1IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): Mark Godden, Lisa Brant, Thomas Gordon

Serial No.: 10/528,442 Group Art Unit: To Be Assigned

Filed: March 29, 2004 Examiner: To Be Assigned

For: SYSTEM AND METHOD OF EMPLOYING INDICIA ON WEB
MATERIAL AND WEB MATERIAL USING SAME

PETITION UNDER 37 C.F.R. §1.47(a)

RECEIVED

Commissioner for Patents
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450

12 JAN 2006

Sir:

Legal Staff
International Division

It is respectfully requested that the Combined Declaration and Power of Attorney in above-identified patent application be accepted without the signature of Mark Godden, one of the three joint inventors of the subject matter of the application, pursuant to 37 C.F.R. § 1.47(a).

Inventor Mark Godden does not respond to repeated requests for him to execute the combined declaration and power of attorney, following diligent efforts to reach him and to request that he sign this document, as detailed in the accompanying Statement of Facts. Therefore, inventors Lisa Brant and Thomas Gordon are signing the combined declaration and power of attorney on behalf of themselves and also on behalf of the non-signing inventor Mark Godden in accordance with 37 C.F.R. §1.47(a).

This Petition is also accompanied by the following:

956869 v1

BEST AVAILABLE COPY

Docket No. 4758-4101US1

(1) a Combined Declaration and Power of Attorney executed by joint inventors Lisa Brant and Thomas Gordon on behalf of themselves and also on behalf of the non-signing inventor Mark Godden.

(2) authorization to charge deposit account Deposit Account No. 13-4500, Order No. 4758-4101US1 for \$200.00 for the requisite fee accompanying the petition under 37 C.F.R. § 1.47(a).

(3) a Statement of Facts, signed by Keith J. McWha of Morgan & Finnegan, L.L.P., retained by Gerber Scientific Products, Inc. to prosecute the above-referenced patent application, which accompanies this Petition and provides facts in support of the need of the signing inventors to sign the declaration for this application on behalf of themselves and an omitted inventor who refuses to sign the declaration, after diligent effort in accordance with 37 C.F.R. § 1.47(a);

The most current address known for the nonsigning inventor is stated in the Statement of Facts and is as follows: Mark Godden, West Hartley Farm, Blackawton, Devon, TQ9 7DH, Great Britain, United Kingdom.

Docket No. 4758-4101US1**AUTHORIZATION**

The Commissioner is hereby authorized to charge any fee(s) which may be required for this Petition under 37 C.F.R. §1.47(a), and accompanying papers, or to credit any overpayment, to Deposit Account No. 13-4500, Order No. 4758-4101US1.

Respectfully submitted,

Morgan & Finnegan, L.L.P.

Dated: 11/22/05By: Keith J. McWha

Keith J. McWha

Registration No. 44,235

Correspondence Address

Morgan & Finnegan, L.L.P.
3 World Financial Center
New York, NY 10281-2101
Tel: 212-415-8700
Fax: 212-415-8701

Docket No. 4758-4101US1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): Mark Godden, Lisa Brant, Thomas Gordon
Serial No.: 10/528,442 Group Art Unit: To Be Assigned
Filed: March 29, 2004 Examiner: To Be Assigned
For: SYSTEM AND METHOD OF EMPLOYING INDICIA ON WEB
MATERIAL AND WEB MATERIAL USING SAME

STATEMENT OF FACTS IN SUPPORT OF PETITION UNDER 37 C.F.R. § 1.47(a)

Commissioner for Patents
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450

I, Keith J. McWha, hereby declare as follows:

1. I am an attorney admitted to the bars of New York, New Jersey, the District of Columbia, and the U.S. Patent and Trademark Office (registration no. 44,235) and an associate of the firm of Morgan & Finnegan, L.L.P. ("Morgan & Finnegan"), 3 World Financial Center, New York, New York 10281-2101. I make this Statement Of Facts In Support Of The Petition Under 37 C.F.R. § 1.47(a) in the above-referenced application. Morgan & Finnegan has been retained by Gerber Scientific Products, Inc. to prosecute and handle all matters relating to the above-referenced patent application in the U.S. Patent and Trademark Office. At Morgan & Finnegan, I am responsible for the handling and prosecution of the above-referenced patent application.

2. I am making this declaration on behalf of Gerber Scientific Products, Inc., at which the invention of the above-referenced patent application was made and to whom the provisional application corresponding to the above-identified patent application is assigned, as to

Docket No. 4758-4101US1

the exact facts which are relied upon to establish the diligent effort made to secure the execution of the Declaration and Power of Attorney ("Declaration") by the non-signing joint inventor, Mark Godden. The filing of an executed Declaration in the subject application is in response to a Notification of Missing Requirements mailed from the United States Patent and Trademark Office ("USPTO") on September 23, 2005.

3. I have first-hand knowledge of the facts stated herein.

STATEMENT OF CURRENT ADDRESS

4. Mark Godden's last known residence address is West Hartley Farm, Blackawton, Devon, TQ9 7DH, Great Britain, United Kingdom.

DETAILS OF OMITTED INVENTOR

5. The inventors of above-identified patent application are Mark Godden, Lisa Brant, and Thomas Gordon. The application was filed on March 29, 2004, without a Declaration or an Assignment.

6. The corresponding provisional application was filed on March 28, 2003 with serial number 60/458,462. On July 24, 2003, Mark Godden signed an Assignment of rights for the provisional patent application to Gerber Scientific Products, Inc. In the Assignment, Mr. Godden consented to "covenant and agree to sign all proper papers including divisional and other applications for patents and assignments thereof in the United States and application for patents and assignments in all foreign countries, and to execute all rightful oaths and to take any other proper action that may in the judgment of the said corporation be necessary for securing thereto full rights to said invention..." (Exhibit A). Because Mr. Godden assigned his rights to the corresponding provisional patent application to Gerber Scientific Products, Inc., he no longer

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retains any rights to the above-identified non-provisional patent application.

7. After executing the Assignment, Mark Godden left the employ of Gerber Scientific Products, Inc.
8. On April 12, 2005, Gerber Scientific Products, Inc. sent Registered Mail No. RB911855739W containing the Power of Attorney document to Mark Godden at the address, West Hartley Farm, Blackawton, Devon, TQ9 7DH, Great Britain, United Kingdom. Mr. Godden was instructed to sign the enclosed form and return it to Gerber Scientific Products, Inc. No response was received. Maureen Shook of Gerber Scientific Products, Inc. also attempted to contact Mr. Godden by cell phone multiple times but repeatedly received the message, "Phone switched off." (Exhibit B)
9. On August 17, 2005, an internet search was performed for Mark Godden's address on the web site, "<http://www.ukphonebook.com>". The address listed was 25 Lower Warren Road, Kingsbridge. Subsequent communication with Gerber Scientific Products, Inc. on August 22, 2005 revealed the updated address listed above. (Exhibits C and D)
10. On or about August 24, 2005, I mailed an Assignment document running from the inventors to Gerber Scientific International, Inc. and a Combined Declaration/Power of Attorney document to Gerber Scientific, Inc. On or about November 3, 2005, we received a copy of the documents from Gerber Scientific, Inc. with the signatures of Lisa Brant and Thomas Gordon. Mark Godden's signature was missing. (Exhibit E)
11. On August 24, 2005, I mailed an Assignment document running from the inventors to Gerber Scientific International, Inc. and a Combined Declaration/Power of Attorney document to to Mr. Godden at his last known current address. (Exhibit F). No response has been

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received.

12. I remain without any information as to the location of Mark Godden and I have no way of contacting him.

13. As is set forth above, Morgan & Finnegan, on behalf of Gerber Scientific Products, Inc., has acted diligently and in good faith in making a bona fide attempt to request that inventor Mark Godden execute the Combined Declaration/Power of Attorney document.

14. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine, or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Respectfully submitted,

Morgan & Finnegan, L.L.P.

Date: 11/22/05

By: Keith J. McWha
Keith J. McWha
Registration No. 44,235

Correspondence Address
Morgan & Finnegan, L.L.P.
3 World Financial Center
New York, NY 10281-2101
Tel: 212-415-8700
Fax: 212-415-8701

Exhibit A

-1-

ASSIGNMENT

THIS INSTRUMENT OF ASSIGNMENT WITNESSETH THAT:

WHEREAS, we, Mark Godden, Lisa Brandt and Thomas A. Gordon

residents of 25 Lower Warren Road, Kingsbridge, Devon, UK TQ7-1LF; 35
Evergreen Terrace, Durham, CT 06422; and 164 Great Pond Road, South
Glastonbury, CT 06073;

respectively, have invented improvements in

WEB MATERIAL WITH INDICIA

for which a Provisional Patent Application of the United States was filed on
March 28, 2003, as Application Serial No. 60/458,462 and

WHEREAS, GERBER SCIENTIFIC PRODUCTS, INC.

a corporation of the State of Connecticut

having a place of business at 83 Gerber Road West, South Windsor, CT 06074

is desirous of acquiring an interest in said invention, said application and the
Letters Patent to be issued therefor;

NOW, THEREFORE, to all whom it may concern, be it known that for
and in consideration of the sum of ONE DOLLAR to each in hand paid and other
good and valuable consideration, the receipt whereof is hereby acknowledged,
we have sold, assigned and set over, and do hereby sell, assign and set over to
said corporation, its successors or assigns, the entire right, title and interest to
and in said invention in the United States and in all foreign countries, said United
States application for Letters Patent therefor and the Letters Patent when issued;
and we do hereby authorize and request the Commissioner of Patent and
Trademarks to issue the Letters Patent based upon said application to said
corporation as the assignees of our entire right, title and interest to and in the
same, for the sole use and behoof of said corporation, its successors or assigns.

-2-

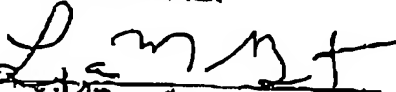
And we also hereby covenant and agree to sign all proper papers including divisional and other applications for patents and assignments thereof in the United States and application for patents and assignments in all foreign countries, and to execute all rightful oaths and to take any other proper action that may in the judgment of the said corporation be necessary for securing thereto full rights to said invention, all of the foregoing to be at the expense of said corporation.

IN TESTIMONY WHEREOF, we have hereunto set our hands and affixed our seals.

24 JULY 03
Date

By 
Mark Godden

Date

By 
Lisa Branstetter

7/23/03
Date

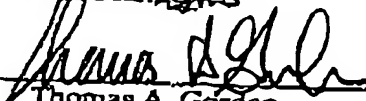
By 
Thomas A. Gordon

Exhibit B

Registered No.

RB911 855 73911

Date Stamp



Reg. Fee 7.50

Handling Charge

Return Receipt

Postage 8.70

Restricted Delivery

Received by

Customer Must Declare Full Value \$

☐ With Postal Insurance
☒ Without Postal Insurance

Domestic Insurance up to \$25,000 is included in the fee. International indemnity is limited. (See Reverse).

OFFICIAL USE

To Be Completed By Customer (Please Print) All Entries Must Be in Ballpoint or Typed	FROM	Legal Department Gerber Scientific Incorporated 83 Gerber RD South Windsor, CT 06074 USA Mr Mark Godden
	TO	West Hartley Farm Blackawton Devon TQ9 7DH Great Britain - United Kingdom

PS Form 3806, Receipt for Registered Mail Copy 1 - Customer
 May 2004 (7530-02-000-9051) (See Information on Reverse)
 For domestic delivery information, visit our website at www.usps.com

-1393WO - System and
 Method of Employing
 Indicias on Web Material
 and Web Material
 Using Same

Waiting for Mark Godden to
 return signed Power of Attorney
 Sent 4/12/05
 Registered Mail.

Still waiting for return
 * From Mark Godden

Exhibit C

You're using...

High Effective CPMs

**Maximize revenue from
online advertising.**

Value

Wednesday 17 August 2005

You have 5 free telephone searches today

Directory enquiries -

- Call 11-80-80 for

FIND A PHONE NUMBER

FIND A POSTCODE

REVERSE SEARCH

FEEDBACK

LOG OUT

OR USE PASSWORD

LEGAL

HELP

ADD TO FAVOURITES

ABOUT US

BUY CREDITS

CORPORATE USERS

CONTACT

REFINE YOUR SEARCH

Your search for the person named **Godden** in **Kingsbridge** returned no results. Please review your search criteria and try again.

Godden

Last name or business name
(eg. Jones or Harrods)
Initials (optional)

Kingsbridge

Town or village

25 Lower Warren Road

Street

Launch
Interactive
MapReach.
Relevancy.
Results© 2005 Simunk Limited. All Rights Reserved. ukphonebook® is a registered trademark of Simunk
Calls to 118080 cost 50p per minute - minimum charge 50p from a BT landline. Calls from c

High Effective CPMs

**Maximize revenue from
online advertising**

Exhibit D

Message

Mitchell, Erica D.

From: McWha, Keith
Sent: Monday, August 22, 2005 1:46 PM
To: Mitchell, Erica D.
Subject: FW: P48-1393WO (4758-4101PC)
Importance: High
Sensitivity: Confidential

Erica:

For our return mailer attach FEDEX pre-paid (International) also note the different address for Mr. Godden.

-----Original Message-----

From: Riddles, Andrew M.
Sent: Monday, August 22, 2005 1:36 PM
To: McWha, Keith; Mitchell, Erica D.
Subject: FW: P48-1393WO (4758-4101PC)
Importance: High
Sensitivity: Confidential

From: Shook, Maureen (GSP)[SMTP:SHOOKM@GSPINC.COM]
Sent: Monday, August 22, 2005 1:30:26 PM
To: McWha, Keith
Cc: Riddles, Andrew M.; Mitchell, Erica D.; Bavier, Paul (NAUSCT); Binnall, Dan (NAUSCT)
Subject: RE: P48-1393WO (4758-4101PC)
Importance: High
Sensitivity: Confidential
Auto forwarded by a Rule

Dear Keith,

Further to our telephone conversation of 8/22, on April 12, 2005, a Registered Mail No. RB911855739W was sent to Mr. Mark Godden who was previously an employee of Spandex. The letter was addressed as follows:

Mr. Mark Godden
West Hartley Farm
Blackawton
Devon
TQ9 7DH
Great Britain - United Kingdom

Mr. Godden was instructed to sign the enclosed Power of Attorney and mail it back to the attention of Mr. Paul Bavier, GSP's Legal Department.
I also tried to contact Mr. Godden by cell phone about six times. The cell phone was never in service - message stated "Phone Switched Off".
Mr. Stephen Lovass of Spandex advised me ahead of time that it would be doubtful if we received a response.

I wanted to enclose a postage paid return envelope for convenience, but the U.S. Post Office said that this was not allowed because of the different mailing systems.

8/23/2005

message

I hope that this is all the information required.

Sincerely,
Maureen Shook
880-648-8145

-----Original Message-----

From: McWha, Keith [mailto:kmcwha@morganfinnegan.com]
Sent: Thursday, August 18, 2005 4:58 PM
To: BinnallD@gspinc.com; ShookM@gspinc.com
Cc: Riddles, Andrew M.; Mitchell, Erica D.
Subject: RE: P48-1393WO (4758-4101PC)
Importance: High
Sensitivity: Confidential

RE: P48-1393WO

Dear Dan:

We are about to send via certified mail a letter to Mr. Mark Godden concerning the above application and his required signature on a combined oath/power of attorney. Could you please confirm whether Mr. Godden was a Gerber employee and his approximate length of employment. Thank you.

Keith J. McWha
Morgan & Finnegan, LLP
3 World Financial Center
New York, New York 10281-2101
Tel: Firm (212) 415-8700
Tel: Direct (212) 415-8705
Fax: (212) 415-8701
email: KMcWha@morganfinnegan.com
website: <http://www.morganfinnegan.com>

*****Internet Email Confidentiality*****

This transmission, and any attached files, may contain information from the law firm of Morgan & Finnegan, L.L.P. which is confidential and/or legally privileged. Such information is intended only for the use of the individual or entity to whom this transmission is addressed. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution or the taking of any action in reliance on the contents of this transmitted information is strictly prohibited, that copies of this transmission and any attached files should be deleted from your disk directories immediately, and that any printed copies of this transmission or attached files should be returned to this firm. If you have received this transmission in error, please notify us by telephone or e-mail immediately, and we will arrange for the return to Morgan & Finnegan of any printed copies at no cost to you.

8/23/2005

Exhibit E

Docket No. 4758-4101US1

**COMBINED DECLARATION AND POWER OF ATTORNEY FOR
ORIGINAL, DESIGN, NATIONAL STAGE OF PCT, SUPPLEMENTAL,
DIVISIONAL, CONTINUATION OR CONTINUATION-IN-PART APPLICATION**

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name,

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled:

SYSTEM AND METHOD OF EMPLOYING INDICIA ON WEB MATERIAL AND WEB
MATERIAL USING SAME

the specification of which

- a. ☐ is attached hereto
- b. ☐ was filed on _____ as application Serial No. _____ and was amended on _____ (if applicable).

PCT FILED APPLICATION ENTERING NATIONAL STAGE

- c. ☒ was described and claimed in International Application No. PCT/US2004/009565 filed on 29 March 2004 and as amended on _____ (if any).

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to patentability as defined in 37 C.F.R. § 1.56.

I hereby specify the following as the correspondence address to which all communications about this application are to be directed:

SEND CORRESPONDENCE TO:

☒ The address associated with the Customer Number

-OR-

☐ Address Shown (see below)

27123

DIRECT TELEPHONE CALLS TO:

Andrew M. Riddles
(212) 415-8700

☐ I hereby claim foreign priority benefits under Title 35, United States Code § 119 (a)-(d) or under § 365(b) of any foreign application(s) for patent or inventor's certificate or under § 365(a) of any PCT international application(s) designating at least one country other than the U.S. listed below and also have identified below such foreign application(s) for patent or inventor's certificate or such PCT international application(s) filed by me on the same subject matter having a filing date within twelve (12) months before that of the application on which priority is claimed:

☒ The attached 35 U.S.C. § 119 claim for priority for the application(s) listed below forms a part of this declaration.

Country/PCT	Application Number	Date of filing (day, month, yr)	Date of issue (day, month, yr)	Priority Claimed
PCT	PCT/US2004/009565	29 March 2004		<input checked="" type="checkbox"/> Y <input type="checkbox"/> N
				<input type="checkbox"/> Y <input type="checkbox"/> N
				<input type="checkbox"/> Y <input type="checkbox"/> N

☒ I hereby claim the benefit under 35 U.S.C. § 119(e) of any U.S. provisional application(s) listed below.

Provisional Application No.	Date of filing (day, month, yr)
60/458,462	28 March 2003

**ADDITIONAL STATEMENTS FOR DIVISIONAL,
CONTINUATION OR CONTINUATION-IN-PART
OR PCT APPLICATION(S) DESIGNATING THE U.S.**

I hereby claim the benefit under Title 35, United States Code § 120 of any United States application(s) or under § 365(c) of any PCT international application(s) designating the U.S. listed below.

US/PCT Application Serial No.	Filing Date	Status (patented, pending, abandoned)/ U.S. application no. assigned (For PCT)
-------------------------------	-------------	--

US/PCT Application Serial No.	Filing Date	Status (patented, pending, abandoned)/ U.S. application no. assigned (For PCT)
-------------------------------	-------------	--

☐ In this continuation-in-part application, insofar as the subject matter of any of the claims of this application is not disclosed in the above listed prior United States or PCT international application(s) in the manner provided by the first paragraph of Title 35, United States Code, § 112, I acknowledge the duty to disclose material information as defined in Title 37, Code of Federal Regulations, § 1.56(a) which occurred between the filing date of the prior application(s) and the national or PCT international filing date of this application.

I hereby declare that all statements made herein of my own knowledge and belief and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or Imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

I hereby appoint:

☒ Practitioners associated with the Customer Number

27123

-OR-

☐ Practitioner(s) named below:

Name	Registration Number

☒ I hereby authorize the U.S. attorneys and/or agents named hereinabove to accept and follow instructions from Andrew M. Riddles as to any action to be taken in the U.S. Patent and Trademark Office regarding this application without direct communication between the U.S. attorneys and/or agents and me. In the event of a change in the person(s) from whom instructions may be taken I will so notify the U.S. attorneys and/or agents named hereinabove.

Full name of sole or first inventor: Mark Godden

Inventor's signature* _____

_____ Date

Residence:

25 Lower Warren Road, Kingsbridge Devon TQ7 1LF, Great Britain

Citizenship:

United Kingdom

Post Office Address:

Same as above

Full name of second inventor:

Lisa Brant

Inventor's signature* _____

Lisa Brant

_____ Date

Residence:

35 Evergreen Terrace, Durham, CT 06422

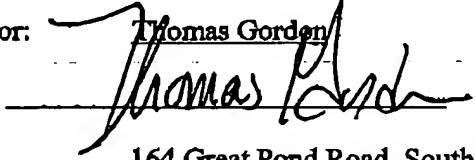
Citizenship:

US

Post Office Address:

Same as above

☒ ATTACHED IS ADDED PAGE TO COMBINED DECLARATION AND POWER OF ATTORNEY FOR SIGNATURE BY THIRD AND SUBSEQUENT INVENTORS FORM.

Full name of third inventor:	<u>Thomas Gordon</u>
Inventor's signature*	<u></u> <u>11/3/05</u> Date
Residence:	<u>164 Great Pond Road, South Glastonbury, CT 06033</u>
Citizenship:	<u>US</u>
Post Office Address:	<u>Same as above</u>

*Before signing this declaration, each person signing must:

1. Review the declaration and verify the correctness of all information therein; and
2. Review the specification and the claims, including any amendments made to the claims.

After the declaration is signed, the specification and claims are not to be altered.

To the inventor(s):

The following are cited in or pertinent to the declaration attached to the accompanying application:

Title 37, Code of Federal Regulation, §1.56

Duty to disclose information material to patentability

- (a) A patent by its very nature is affected with a public interest. The public interest is best served, and the most effective patent examination occurs when, at the time an application is being examined, the Office is aware of and evaluates the teachings of all information material to patentability. Each individual associated with the filing and prosecution of a patent application has a duty of candor and good faith in dealing with the Office, which includes a duty to disclose to the Office all information known to that individual to be material to patentability as defined in this section. The duty to disclose information exists with respect to each pending claim until the claim is cancelled or withdrawn from consideration, or the application becomes abandoned. Information material to the patentability of a claim that is cancelled or withdrawn from consideration need not be submitted if the information is not material to the patentability of any claim remaining under consideration in the application. There is no duty to submit information which is not material to the patentability of any existing claim. The duty to disclose all information known to be material to patentability is deemed to be satisfied if all information known to be material to patentability of any claim issued in a patent was cited by the Office or submitted to the Office in the manner prescribed by §§ 1.97(b)-(d) patentability of any existing claim. The duty to disclose all information known to be material to patentability is deemed to be satisfied if all information known to be material to patentability of any claim issued in a patent was cited by the Office or submitted to the Office in the manner prescribed by §§ 1.97(b)-(d) and 1.98. However, no patent will be granted on an application in connection with which fraud on the Office was practiced or attempted or the duty of disclosure was violated through bad faith or intentional misconduct. The Office encourages applicants to carefully examine:

- (1) prior art cited in search reports of a foreign patent office in a counterpart application, and
- (2) the closest information over which individuals associated with the filing or prosecution of a patent application believe any pending claim patentably defines, to make sure that any material information contained therein is disclosed to the Office.

- (b) Under this section, information is material to patentability when it is not cumulative to information already of record or being made of record in the application, and

- (1) It establishes, by itself or in combination with other information, a prima facie case of unpatentability of a claim; or
- (2) It refutes, or is inconsistent with, a position the applicant takes in:
 - (i) Opposing an argument of unpatentability relied on by the Office, or
 - (ii) Asserting an argument of patentability. A prima facie case of unpatentability is established when the information compels a conclusion that a claim is unpatentable under the preponderance of evidence, burden-of-proof standard,

giving each term in the claim its broadest reasonable construction consistent with the specification, and before any consideration is given to evidence which may be submitted in an attempt to establish a contrary conclusion of patentability.

- (c) Individuals associated with the filing or prosecution of a patent application within the meaning of this section are:
 - (1) Each inventor named in the application;
 - (2) Each attorney or agent who prepares or prosecutes the application; and
 - (3) Every other person who is substantively involved in the preparation or prosecution of the application and who is associated with the inventor, with the assignee or with anyone to whom there is an obligation to assign the application.
- (d) Individuals other than the attorney, agent or inventor may comply with this section by disclosing information to the attorney, agent, or inventor.
- (e) In any continuation-in-part application, the duty under this section includes the duty to disclose to the Office all information known to the person to be material to patentability, as defined in paragraph (b) of this section, which became available between the filing date of the prior application and the National or PCT international filing date of the continuation-in-part application.

Title 35, U.S. Code § 101

Inventions patentable

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Title 35 U.S. Code § 102

Conditions for patentability; novelty and loss of right to patent

A person shall be entitled to a patent unless --

- (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for patent,
- (b) the invention was patented or described in a printed publication in this or foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States, or
- (c) he has abandoned the invention, or
- (d) the invention was first patented or caused to be patented, or was the subject of an inventor's certificate, by the applicant or his legal representatives or assigns in a foreign country prior to the date of the application for patent in this country on an application for patent or inventor's certificate filed more than twelve months before the filing of the application in the United States, or
- (e) The invention was described in--
 - (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national

application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or

- (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a); or
- (f) he did not himself invent the subject matter sought to be patented, or
- (g) (1) during the course of an interference conducted under section 135 or section 291, another inventor involved therein establishes, to the extent permitted in section 104, that before such person's invention thereof the invention was made by such other inventor and not abandoned, suppressed, or concealed, or (2) before such person's invention thereof, the invention was made in this country by another inventor who had not abandoned, suppressed, or concealed it. In determining priority of invention under this subsection, there shall be considered not only the respective dates of conception and reduction to practice of the invention, but also the reasonable diligence of one who was first to conceive and last to reduce to practice, from a time prior to conception by the other.

Title 35, U.S. Code § 103

103. Conditions for patentability; non-obvious subject matter

- (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
- (b) (1) Notwithstanding subsection (a), and upon timely election by the applicant for patent to proceed under this subsection, a biotechnological process using or resulting in a composition of matter that is novel under section 102 and nonobvious under subsection (a) of this section shall be considered nonobvious if—
 - (A) claims to the process and the composition of matter are contained in either the same application for patent or in separate applications having the same effective filing date; and
 - (B) the composition of matter, and the process at the time it was invented, were owned by the same person or subject to an obligation of assignment to the same person.
- (2) A patent issued on a process under paragraph (1)—
 - (A) shall also contain the claims to the composition of matter used in or made by that process, or
 - (B) shall, if such composition of matter is claimed in another patent, be set to expire on the same date as such other patent, notwithstanding section 154.
- (3) For purposes of paragraph (1), the term "biotechnological process" means—

- (A) a process of genetically altering or otherwise inducing a single- or multi-celled organism to—
- (i) express an exogenous nucleotide sequence,
 - (ii) inhibit, eliminate, augment, or alter expression of an endogenous nucleotide sequence, or
 - (iii) express a specific physiological characteristic not naturally associated with said organism;
- (B) cell fusion procedures yielding a cell line that expresses a specific protein, such as a monoclonal antibody; and
- (C) a method of using a product produced by a process defined by subparagraph (A) or (B), or a combination of subparagraphs (A) and (B).
- (c) Subject matter developed by another person, which qualifies as prior art only under one or more of subsections (e), (f), and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

Title 35, U.S. Code § 112 (in part)

Specification

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same, and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Title 35, U.S. Code, § 119

Benefit of earlier filing date in foreign country; right of priority

- (a) An application for patent for an invention filed in this country by any person who has, or whose legal representatives or assigns have, previously regularly filed an application for a patent for the same invention in a foreign country which affords similar privileges in the case of applications filed in the United States or to citizens of the United States, or in a WTO member country, shall have the same effect as the same application would have if filed in this country on the date on which the application for patent for the same invention was first filed in such foreign country, if the application in this country is filed within twelve months from the earliest date on which such foreign application was filed; but no patent shall be granted on any application for patent for an invention which had been patented or described in a printed publication in any country more than one year before the date of the actual filing of the application in this country, or which had been in public use or on sale in this country more than one year prior to such filing.
- (b) (1) No application for patent shall be entitled to this right of priority unless a claim is filed in the Patent and Trademark Office, identifying the foreign application by specifying the application number on that foreign application, the intellectual property authority or country in or for which the application was filed, and the date of filing the application, at such time during the pendency of the application as required by the Director.
- (2) The Director may consider the failure of the applicant to file a timely claim for priority as a waiver of any such claim. The Director may establish procedures, including the payment of a surcharge, to accept an unintentionally delayed claim under this section.
- (3) The Director may require a certified copy of the original foreign application, specification, and drawings upon which it is based, a translation if not in the English language, and such other

information the Director considers necessary. Any such certification shall be made by the foreign intellectual property authority in which the foreign application was filed and show the date of the application and of the filing of the specification and other papers.

- (c) In like manner and subject to the same conditions and requirements, the right provided in this section may be based upon a subsequent regularly filed application in the same foreign country instead of the first filed foreign application, provided that any foreign application filed prior to such subsequent application has been withdrawn, abandoned, or otherwise disposed of, without having been laid open to public inspection and without leaving any rights outstanding, and has not served, nor thereafter shall serve, as a basis for claiming a right of priority.
- (d) Applications for inventors' certificates filed in a foreign country in which applicants have a right to apply, at their discretion, either for a patent or for an inventor's certificate shall be treated in this country in the same manner and have the same effect for purpose of the right of priority under this section as applications for patents, subject to the same conditions and requirements of this section as apply to applications for patents, provided such applicants are entitled to the benefits of the Stockholm Revision of the Paris Convention at the time of such filing.
- (e)
 - (1) An application for patent filed under section 111(a) or section 363 of this title for an invention disclosed in the manner provided by the first paragraph of section 112 of this title in a provisional application filed under section 111(b) of this title, by an inventor or inventors named in the provisional application, shall have the same effect, as to such invention, as though filed on the date of the provisional application filed under section 111(b) of this title, if the application for patent filed under section 111(a) or section 363 of this title is filed not later than 12 months after the date on which the provisional application was filed and if it contains or is amended to contain a specific reference to the provisional application. No application shall be entitled to the benefit of an earlier filed provisional application under this subsection unless an amendment containing the specific reference to the earlier filed provisional application is submitted at such time during the pendency of the application as required by the Director. The Director may consider the failure to submit such an amendment within that time period as a waiver of any benefit under this subsection. The Director may establish procedures, including the payment of a surcharge, to accept an unintentionally delayed submission of an amendment under this subsection during the pendency of the application.
 - (2) A provisional application filed under section 111(b) of this title may not be relied upon in any proceeding in the Patent and Trademark Office unless the fee set forth in subparagraph (A) or (C) of section 41(a)(1) of this title has been paid.
 - (3) If the day that is 12 months after the filing date of a provisional application falls on a Saturday, Sunday, or Federal holiday within the District of Columbia, the period of pendency of the provisional application shall be extended to the next succeeding secular or business day.
- (f) Applications for plant breeder's rights filed in a WTO member country (or in a foreign UPOV Contracting Party) shall have the same effect for the purpose of the right of priority under subsections (a) through (c) of this section as applications for patents, subject to the same conditions and requirements of this section as apply to applications for patents.
- (g) As used in this section—
 - (1) the term "WTO member country" has the same meaning as the term is defined in section 104(b)(2) of this title; and
 - (2) the term "UPOV Contracting Party" means a member of the International Convention for the Protection of New Varieties of Plants.

Title 35, U.S. Code, § 120**Benefit or earlier filing date in the United States**

An application for patent for an invention disclosed in the manner provided by the first paragraph of section 112 of this title in an application previously filed in the United States, or as provided by section 363 of this title, which is filed by an inventor or inventors named in the previously filed application shall have the same effect, as to such invention, as though filed on the date of the prior application, if filed before the patenting or abandonment of or termination of proceedings on the first application or on an application similarly entitled to the benefit of the filing date of the first application and if it contains or is amended to contain a specific reference to the earlier filed application. *No application shall be entitled to the benefit of an earlier filed application under this section unless an amendment containing the specific reference to the earlier filed application is submitted at such time during the pendency of the application as required by the Director. The Director may consider the failure to submit such an amendment within that time period as a waiver of any benefit under this section. The Director may establish procedures, including the payment of a surcharge, to accept an unintentionally delayed submission of an amendment under this section.*

Please read carefully before signing the Declaration attached to the accompanying Application. If you have any questions, please contact Morgan & Finnegan, L.L.P.

Docket No. 4758-4101US1**ASSIGNMENT OF APPLICATION FOR PATENT****WHEREAS:**Mark Godden, 25 Lower Warren Road, Kingsbridge Devon TO7 1LF, Great BritainLisa Brant, 35 Evergreen Terrace, Durham, CT 06422Thomas Gordon, 164 Great Pond Road, South Glastonbury, CT 06033

(hereinafter referred to as ASSIGNOR(S)), has made a discovery or invention entitled:

SYSTEM AND METHOD OF EMPLOYING INDICIA ON WEB MATERIAL AND
WEB MATERIAL USING SAME

- ☐ for which application for Letters Patent of the United States has been executed on even date herewith,
- ☐ for which application for Letters Patent of the United States has been filed on _____, under Serial No. _____, and

WHEREAS:Gerber Scientific Products, Inc., 83 Gerber Road West, South Windsor, CT 06074

(hereinafter referred to as ASSIGNEE), is desirous of acquiring the entire interest in, to and under said invention and in, to and under Letters Patent or similar legal protection to be obtained therefor in the United States and in any and all foreign countries.

NOW, THEREFORE, TO ALL WHOM IT MAY CONCERN:

Be it known that for valuable consideration by ASSIGNEE to ASSIGNOR(S), the receipt of which is hereby acknowledged, ASSIGNOR(S) hereby sells, assigns and transfers to ASSIGNEE, its successors, legal representatives and assigns, the full and exclusive right, title and interest to said discovery or invention in the United States and its territorial possessions and in all foreign countries and to all Letters Patent or similar legal protection in the United States and its territorial possessions and in any and all foreign countries to be obtained for said invention by said application or any continuation, division, renewal, substitute, reissue or reexamination thereof or any legal equivalent thereof in a foreign country for the full term or terms for which the same may be granted.

I, SAID ASSIGNOR(S), hereby authorize and request the Commissioner of Patents and Trademarks of the United States of America and any Official of any country or countries foreign to the United States of America whose duty it is to issue Letters Patent on applications as aforesaid, to issue all such Letters Patent for said discovery or invention to the ASSIGNEE, as

assignee of the entire right, title and interest in, to and under the same, for the sole use and behalf of the ASSIGNEE, its successors, legal representatives and assigns, in accordance with the terms of this instrument.

I, SAID, ASSIGNOR(S), hereby covenant that I have full right to convey the entire right, title and interest herein sold, assigned, transferred and set over;

AND I, SAID ASSIGNOR(S) hereby further covenant and agree that the ASSIGNEE, its successors, legal representatives, or assigns, may apply for foreign Letters Patent on said discovery or invention and claim the benefits of the International Convention, and that I will, at any time, when called upon to do so by the ASSIGNEE, its successors, legal representatives, or assigns, communicate to the ASSIGNEE, its successors, legal representatives, or assigns, as the case may be, any facts known to me respecting said discovery or invention, and execute and deliver any and all lawful papers that may be necessary or desirable to perfect the title to the said discovery or invention, the said applications and the said Letters Patent in the ASSIGNEE, its successors, legal representatives and assigns, and that if reissues or reexaminations of the said Letters Patent or disclaimers relating thereto, or divisions, continuations, or refilings of the said applications, or any thereof, shall hereafter be desired by the ASSIGNEE, its successors, legal representatives, or assigns, I will, at any time, when called upon to do so by the ASSIGNEE its successors, legal representatives, or assigns, sign all lawful papers, make all rightful oaths, execute and deliver all such disclaimers and all divisional, continuation, reissue and reexamination applications so desired, and do all lawful acts requisite for the application for such reissues and the procuring thereof and for the filing of such disclaimers and such applications, and generally do everything possible to aid the ASSIGNEE, its successors, legal representatives and assigns, to obtain and enforce proper patent protection for said invention or discovery in all countries, all without further compensation but at the expense of the ASSIGNEE, its successors, legal representatives and assigns.

Signed:

(1)	_____ Mark Godden	Date	_____
(2)	_____ Lisa Bryant	Date	11/3/05
(3)	_____ Thomas Gordon	Date	11/3/05
(4)	_____	Date	_____
(5)	_____	Date	_____

Exhibit F

Morgan & Finnegan, L.P.

A Registered Limited Liability Partnership

3 WORLD FINANCIAL CENTER

NEW YORK, NY 10281-2101

TEL: 212-415-8700

FAX: 212-415-8701

www.morganfinnegan.com

Kelth J. McWha
(212) 415-8705
kmcwha@morganfinnegan.com

August 24, 2005

VIA FEDERAL EXPRESS

Mr. Mark Godden
West Hartley Farm
Blackawton
Devon TQ9 7DH
Great Britain

Ref: 04758-4101US1EDM	Date: 08/24/2005	SHIPPING:	25.20
Dep: legal documents	Wgt: 0.6 LBS	SPECIAL:	3.15
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	# of Pkgs: 1		TOTAL:
Svos: INTL PRIORITY PAK			
TRACK: 6266 8835 8355			

Re: U.S. National Filing of International Application Number
PCT/US2004/09565
Entitled: SYSTEM AND METHOD OF EMPLOYING INDICIA ON
WEB MATERIAL AND WEB MATERIAL USING SAME
Our Reference: 4758-4101US1

Dear Mr. Godden:

On behalf of Gerber Scientific Products, Inc., we have entered the U.S. national phase before the United States Patent and Trademark Office on March 18, 2005. Copies of the published PCT application referenced above, an Information Disclosure Statement, and the transmittal documents are enclosed for your file.

In order to complete all filing formalities, we have enclosed an Assignment document running from the Inventors to Gerber Scientific International, Inc. and a Combined Declaration/Power of Attorney document. Please execute the aforementioned documents where indicated and return them to me either in the postage-prepaid express mail envelope or by facsimile at (212) 415-8701. As you are aware, you have executed the formal documents for US priority application number 60/458,462, filed on March 28, 2003.

As a prior employee, you have an obligation to sign and return the enclosed documents.

We remind you that each individual associated with the filing and prosecution of a patent application, including each named inventor, has a duty of candor in dealing with the United States Patent and Trademark Office. This duty of candor

Morgan & Finnegan, P.C.

Mr. Mark Godden
August 24, 2005
File 4758-4101US1
Page 2

requires the disclosure to the Patent Office of all information known to each individual which is material to the patentability of each pending claim.

Please let me know if you are aware of any publications, patents or published applications which are relevant to the claimed invention.

Your prompt attention for returning the executed documents is requested. Should you have any questions or concerns, please do not hesitate to contact me.

Very truly yours,



Keith J. McWha

KJM:edm
Enclosures

cc: Mr. Dan Binnall
Paul S. Bavler, Esq.
Ms. Maureen Shook
Andrew M. Riddles, Esq.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): Mark Godden, Lisa Brant, Thomas Gordon
Serial No.: 10/528,442 Group Art Unit: To Be Assigned
Filed: March 29, 2004 Examiner: To Be Assigned
For: SYSTEM AND METHOD OF EMPLOYING INDICIA ON WEB
MATERIAL AND WEB MATERIAL USING SAME

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

**CHANGE OF ENTITY STATUS TO LARGE ENTITY AND
CORRECTION OF FEE DEFICIENCY UNDER 37 C.F.R. §1.28(c)**

Sir:

Following the Notification of Missing Requirements mailed on September 23, 2005 indicating submission from the International Bureau to the U.S. Patent Office items related to claiming small entity status for the above matter, applicant respectfully requests change of entity status to LARGE ENTITY. In accordance with 37 C.F.R. §1.28 (c), the Commissioner is hereby authorized to charge the Deposit Account 13-4500, Order No. 4758-4101US1 for any fee deficiency related to any filing for the above matter under small entity status. A DUPLICATE COPY OF THIS SHEET IS ATTACHED. Filing for a small entity was done in error and without any deceptive intent. If the Examiner has any questions regarding the above matter, or wishes clarification of the matter discussed above, the Examiner is invited to contact the undersigned.

Respectfully submitted,
MORGAN & FINNEGAN, L.L.P.

Dated: November 22, 2005

By: Keith McWha
Keith McWha
Registration No. 44,235

Correspondence Address
MORGAN & FINNEGAN, L.L.P.
3 World Financial Center
New York, New York 10281-2101
(212) 415-8700
(212) 415-8701(facsimile)

Rec'd PCT/PT 6 JAN 2006

PATENTDocket No. 4758-4101US1IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): Mark Godden, Lisa Brant, Thomas Gordon
Group Art Unit: TBA
Serial No.: 10/528,442
Examiner: TBA
Filed: March 29, 2004
For: SYSTEM AND METHOD OF EMPLOYING INDICIA ON WEB MATERIAL AND WEB MATERIAL USING SAME

Mail Stop Missing Parts
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

CERTIFICATE OF FACSIMILE TRANSMISSION

Madam:

As requested, I hereby certify that the attached papers (50 sheets) are being transmitted on the date shown below to the Mrs. Debbie Williams at the following facsimile number: (703) 305-3230.

Respectfully submitted,
MORGAN & FINNEGAN, L.L.P.

Dated: January 6, 2006By: Keith McWha

Keith McWha
Registration No. 44,235

Correspondence Address:

MORGAN & FINNEGAN, L.L.P.
3 World Financial Center
New York, NY 10281-2101
(212) 415-8700 Telephone
(212) 415-8701 Facsimile

[illegible]

4758-4101US1

10/528,442

Case No. _____ Serial No. _____

Date Mailed November 22, 2005 ATTY KMW

Date Due in the Patent Office _____

The return of this post card, properly stamped, will acknowledge receipt in the Patent & Trademark Office of the Following:

- 1.- 1. Response to Notice to File Missing Parts;
- 2.- 2. Copy of Notice;
- 3.- 3. Executed Combined Declaration and Power of Attorney;
- 4.- 4. Change of Entity Status to Large Entity and Correction of Fee Deficiency;
- 5.- 5. Petition under 37 CFR 1.47(a);
- 6.- 6. Statement Of Facts In Support Of Petition Under 37 C.F.R. § 1.47(A) with Exhibits A-F;
- 7.- 7. Express Mail Label No.: EV 497 663 394US;
- 8.- 8. Return receipt postcard



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Mailing Label
Label 11-F June 2002



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Postal Service Acct. No.

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Alexandria, VA 22313-1450

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MORGAN & FINNEGAN LLP

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Docket No. 4758-4101US1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): Mark Godden, Lisa Brant, Thomas Gordon
Group Art Unit: TBA
Serial No.: 10/528,442
Examiner: TBA
Filed: March 29, 2004
For: SYSTEM AND METHOD OF EMPLOYING INDICIA ON WEB MATERIAL AND WEB MATERIAL USING SAME

EXPRESS MAIL CERTIFICATE

Mail Stop Missing Parts
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Express Mail Label No.: EV 497 663 394US

Date of Deposit: November 22, 2005

I hereby certify that the following attached paper(s) and/or fee

1. Response to Notice to File Missing Parts;
2. Copy of Notice;
3. Executed Combined Declaration and Power of Attorney;
4. Change of Entity Status to Large Entity and Correction of Fee Deficiency;
5. Petition under 37 CFR 1.47(a);
6. Statement Of Facts In Support Of Petition Under 37 C.F.R. § 1.47(A) with Exhibits A-F;
7. Return postcard

is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 C.F.R. § 1.10 on the date indicated above and is addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Susan Shen-Frattura

(Typed or printed name of person mailing papers(s) and/or fee)


(Signature of person mailing paper(s) and/or fee)Correspondence Address:

MORGAN & FINNEGAN, L.L.P.
3 World Financial Center
New York, NY 10281-2101
(212) 415-8700 Telephone
(212) 415-8701 Facsimile

ocket No. 4758-4101US1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): Mark Godden, Lisa Brant, Thomas Gordon

Group Art Unit: To Be Assigned

Serial No.: 10/528,442

Examiner: To Be Assigned

Filed: March 29, 2004

For: SYSTEM AND METHOD OF EMPLOYING INDICIA ON WEB MATERIAL AND
WEB MATERIAL USING SAME**RESPONSE TO "NOTICE TO FILE MISSING PARTS"**Mail Stop Missing Parts
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the NOTIFICATION OF MISSING REQUIREMENTS UNDER
35 USC 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE dated September
23, 2005, Applicant(s) submit(s) herewith the following documents for appropriate action by the
U.S. Patent and Trademark Office:

- ☒ Copy of Notice to File Missing Parts
- ☒ Executed Declaration
- ☒ Change of Entity Status to Large Entity
- ☒ Petition under 37 CFR 1.47(a)
- ☒ Please charge the required fee of \$130.00 for late Declaration and \$200 for Petition to
deposit account no. 13-4500, Order No. 4758-4101US1.
- ☐ A check in the amount of \$_____ in payment of the application filing fees is attached.
- ☒ The Commissioner is hereby authorized to charge any additional fees which may be
required by this paper, or credit any overpayment to Deposit Account No. 13-4500, Order
No. 4758-4101US1. A DUPLICATE COPY OF THIS SHEET IS ATTACHED.

Respectfully submitted,
MORGAN & FINNEGAN, L.L.P.Dated: November 22, 2005By: Keith McWhaKeith McWha
Registration No. 44,235**Correspondence Address:**MORGAN & FINNEGAN, L.L.P.
3 World Financial Center
New York, NY 10281-2101
(212) 415-8700 Telephone
(212) 415-8701 Facsimile



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

U.S. APPLICATION NUMBER NO.	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
10/528,442	Mark Godden	4758-4101US1

INTERNATIONAL APPLICATION NO.	
PCT/US04/09565	
LA. FILING DATE	PRIORITY DATE
03/29/2004	03/28/2003

Morgan & Finnegan
3 World Financial Center
New York, NY 10281-2101

CONFIRMATION NO. 4270

371 FORMALITIES LETTER

OC000000017087974

Case 4758-4101 ^{US/} Att'y KJM
Due Date 11.23.05 ext. due 1/6/06
Statutory Date 4.23.06 due

Date Mailed: 09/23/2005

By Am

NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)

The following items have been submitted by the applicant or the IB to the United States Patent and Trademark Office as a Designated / Elected Office (37 CFR 1.495).

- Indication of Small Entity Status
- Copy of the International Application filed on 03/18/2005
- Copy of the International Search Report filed on 03/18/2005
- Copy of references cited in ISR filed on 03/18/2005
- U.S. Basic National Fees filed on 03/18/2005

The following items **MUST** be furnished within the period set forth below in order to complete the requirements for acceptance under 35 U.S.C. 371:

- Oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the international application number and international filing date.

ALL OF THE ITEMS SET FORTH ABOVE MUST BE SUBMITTED WITHIN TWO (2) MONTHS FROM THE DATE OF THIS NOTICE OR BY 32 MONTHS FROM THE PRIORITY DATE FOR THE APPLICATION, WHICHEVER IS LATER. FAILURE TO PROPERLY RESPOND WILL RESULT IN ABANDONMENT.

The time period set above may be extended by filing a petition and fee for extension of time under the provisions of 37 CFR 1.136(a).

Applicant is reminded that any communications to the United States Patent and Trademark Office must be mailed to the address given in the heading and include the U.S. application no. shown above (37 CFR 1.5)

A copy of this notice **MUST** be returned with the response.

REVIEWED BY AUDIT DEPT.
DATE 10/6 BY [Signature]

DEBORAH D WILLIAMS

M F 10/03/05 PM 2:48

Telephone: (703) 308-9140 EXT 205

PART 1 - ATTORNEY/APPLICANT COPY

U.S. APPLICATION NUMBER NO.	INTERNATIONAL APPLICATION NO.	ATTY. DOCKET NO.
10/528,442	PCT/US04/09565	4758-4101US1

FORM PCT/DO/EO/906 (371 Formalities Notice)

Docket No. 4758-4101US1

**COMBINED DECLARATION AND POWER OF ATTORNEY FOR
ORIGINAL, DESIGN, NATIONAL STAGE OF PCT, SUPPLEMENTAL,
DIVISIONAL, CONTINUATION OR CONTINUATION-IN-PART APPLICATION**

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name,

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled:

SYSTEM AND METHOD OF EMPLOYING INDICIA ON WEB MATERIAL AND WEB
MATERIAL USING SAME

the specification of which

- a. ☐ is attached hereto
- b. ☐ was filed on _____ as application Serial No. _____ and was amended on _____ (if applicable).

PCT FILED APPLICATION ENTERING NATIONAL STAGE

- c. ☒ was described and claimed in International Application No. PCT/US2004/009565 filed on 29 March 2004 and as amended on _____ (if any).

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to patentability as defined in 37 C.F.R. § 1.56.

I hereby specify the following as the correspondence address to which all communications about this application are to be directed:

SEND CORRESPONDENCE TO:

- ☒ The address associated with the Customer Number
- OR-
- ☐ Address Shown (see below)

27123

DIRECT TELEPHONE CALLS TO:

Andrew M. Riddles
(212) 415-8700

- ☐ I hereby claim foreign priority benefits under Title 35, United States Code § 119 (a)-(d) or under § 365(b) of any foreign application(s) for patent or inventor's certificate or under § 365(a) of any PCT international application(s) designating at least one country other than the U.S. listed below and also have identified below such foreign application(s) for patent or inventor's certificate or such PCT international application(s) filed by me on the same subject matter having a filing date within twelve (12) months before that of the application on which priority is claimed:
- ☒ The attached 35 U.S.C. § 119 claim for priority for the application(s) listed below forms a part of this declaration.

Country/PCT	Application Number	Date of filing (day, month, yr)	Date of issue (day, month, yr)	Priority Claimed
PCT	PCT/US2004/009565	29 March 2004		<input checked="" type="checkbox"/> Y <input type="checkbox"/> N
				<input type="checkbox"/> Y <input type="checkbox"/> N
				<input type="checkbox"/> Y <input type="checkbox"/> N

- ☒ I hereby claim the benefit under 35 U.S.C. § 119(e) of any U.S. provisional application(s) listed below.

Provisional Application No.	Date of filing (day, month, yr)
60/458,462	28 March 2003

**ADDITIONAL STATEMENTS FOR DIVISIONAL,
CONTINUATION OR CONTINUATION-IN-PART
OR PCT APPLICATION(S) DESIGNATING THE U.S.**

I hereby claim the benefit under Title 35, United States Code § 120 of any United States application(s) or under § 365(c) of any PCT international application(s) designating the U.S. listed below.

US/PCT Application Serial No.	Filing Date	Status (patented, pending, abandoned)/ U.S. application no. assigned (For PCT)
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US/PCT Application Serial No.	Filing Date	Status (patented, pending, abandoned)/ U.S. application no. assigned (For PCT)
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- ☐ In this continuation-in-part application, insofar as the subject matter of any of the claims of this application is not disclosed in the above listed prior United States or PCT international application(s) in the manner provided by the first paragraph of Title 35, United States Code, § 112, I acknowledge the duty to disclose material information as defined in Title 37, Code of Federal Regulations, § 1.56(a) which occurred between the filing date of the prior application(s) and the national or PCT international filing date of this application.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or Imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

I hereby appoint:

☒ Practitioners associated with the Customer Number

27123

-OR-

☐ Practitioner(s) named below:

Name	Registration Number

☒ I hereby authorize the U.S. attorneys and/or agents named hereinabove to accept and follow instructions from Andrew M. Riddles as to any action to be taken in the U.S. Patent and Trademark Office regarding this application without direct communication between the U.S. attorneys and/or agents and me. In the event of a change in the person(s) from whom instructions may be taken I will so notify the U.S. attorneys and/or agents named hereinabove.

Full name of sole or first inventor: Mark Godden

Inventor's signature* _____

Date

Residence:

25 Lower Warren Road, Kingsbridge Devon TQ7 1LF, Great Britain

Citizenship:

United Kingdom

Post Office Address:

Same as above

Full name of second inventor: Lisa Brant

Inventor's signature* _____

Date

Residence:

35 Evergreen Terrace, Durham, CT 06422

Citizenship:

US

Post Office Address:

Same as above

☒ ATTACHED IS ADDED PAGE TO COMBINED DECLARATION AND POWER OF ATTORNEY FOR SIGNATURE BY THIRD AND SUBSEQUENT INVENTORS FORM.

Full name of third inventor:	<u>Thomas Gordon</u>
Inventor's signature*	<u>Thomas Gordon</u> <u>11/2/05</u> Date
Residence:	<u>164 Great Pond Road, South Glastonbury, CT 06033</u>
Citizenship:	<u>US</u>
Post Office Address:	<u>Same as above</u>

*Before signing this declaration, each person signing must:

1. Review the declaration and verify the correctness of all information therein; and
2. Review the specification and the claims, including any amendments made to the claims.

After the declaration is signed, the specification and claims are not to be altered.

To the inventor(s):

The following are cited in or pertinent to the declaration attached to the accompanying application:

Title 37, Code of Federal Regulation, §1.56

Duty to disclose information material to patentability

- (a) A patent by its very nature is affected with a public interest. The public interest is best served, and the most effective patent examination occurs when, at the time an application is being examined, the Office is aware of and evaluates the teachings of all information material to patentability. Each individual associated with the filing and prosecution of a patent application has a duty of candor and good faith in dealing with the Office, which includes a duty to disclose to the Office all information known to that individual to be material to patentability as defined in this section. The duty to disclose information exists with respect to each pending claim until the claim is cancelled or withdrawn from consideration, or the application becomes abandoned. Information material to the patentability of a claim that is cancelled or withdrawn from consideration need not be submitted if the information is not material to the patentability of any claim remaining under consideration in the application. There is no duty to submit information which is not material to the patentability of any existing claim. The duty to disclose all information known to be material to patentability is deemed to be satisfied if all information known to be material to patentability of any claim issued in a patent was cited by the Office or submitted to the Office in the manner prescribed by §§ 1.97(b)-(d) patentability of any existing claim. The duty to disclose all information known to be material to patentability is deemed to be satisfied if all information known to be material to patentability of any claim issued in a patent was cited by the Office or submitted to the Office in the manner prescribed by §§ 1.97(b)-(d) and 1.98. However, no patent will be granted on an application in connection with which fraud on the Office was practiced or attempted or the duty of disclosure was violated through bad faith or intentional misconduct. The Office encourages applicants to carefully examine:
- (1) prior art cited in search reports of a foreign patent office in a counterpart application, and
 - (2) the closest information over which individuals associated with the filing or prosecution of a patent application believe any pending claim patentably defines, to make sure that any material information contained therein is disclosed to the Office.
- (b) Under this section, information is material to patentability when it is not cumulative to information already of record or being made of record in the application, and
- (1) It establishes, by itself or in combination with other information, a prima facie case of unpatentability of a claim; or
 - (2) It refutes, or is inconsistent with, a position the applicant takes in:
 - (i) Opposing an argument of unpatentability relied on by the Office, or
 - (ii) Asserting an argument of patentability. A prima facie case of unpatentability is established when the information compels a conclusion that a claim is unpatentable under the preponderance of evidence, burden-of-proof standard,

giving each term in the claim its broadest reasonable construction consistent with the specification, and before any consideration is given to evidence which may be submitted in an attempt to establish a contrary conclusion of patentability.

- (c) Individuals associated with the filing or prosecution of a patent application within the meaning of this section are:
- (1) Each inventor named in the application;
 - (2) Each attorney or agent who prepares or prosecutes the application; and
 - (3) Every other person who is substantively involved in the preparation or prosecution of the application and who is associated with the inventor, with the assignee or with anyone to whom there is an obligation to assign the application.
- (d) Individuals other than the attorney, agent or inventor may comply with this section by disclosing information to the attorney, agent, or inventor.
- (e) In any continuation-in-part application, the duty under this section includes the duty to disclose to the Office all information known to the person to be material to patentability, as defined in paragraph (b) of this section, which became available between the filing date of the prior application and the National or PCT international filing date of the continuation-in-part application.

Title 35, U.S. Code § 101

Inventions patentable

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Title 35 U.S. Code § 102

Conditions for patentability; novelty and loss of right to patent

A person shall be entitled to a patent unless —

- (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for patent,
- (b) the invention was patented or described in a printed publication in this or foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States, or
- (c) he has abandoned the invention, or
- (d) the invention was first patented or caused to be patented, or was the subject of an inventor's certificate, by the applicant or his legal representatives or assigns in a foreign country prior to the date of the application for patent in this country on an application for patent or inventor's certificate filed more than twelve months before the filing of the application in the United States, or
- (e) The invention was described in—
 - (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national

application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or

- (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a); or
- (f) he did not himself invent the subject matter sought to be patented, or
- (g) (1) during the course of an interference conducted under section 135 or section 291, another inventor involved therein establishes, to the extent permitted in section 104, that before such person's invention thereof the invention was made by such other inventor and not abandoned, suppressed, or concealed, or (2) before such person's invention thereof, the invention was made in this country by another inventor who had not abandoned, suppressed, or concealed it. In determining priority of invention under this subsection, there shall be considered not only the respective dates of conception and reduction to practice of the invention, but also the reasonable diligence of one who was first to conceive and last to reduce to practice, from a time prior to conception by the other.

Title 35, U.S. Code § 103

103. Conditions for patentability; non-obvious subject matter

- (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
- (b) (1) Notwithstanding subsection (a), and upon timely election by the applicant for patent to proceed under this subsection, a biotechnological process using or resulting in a composition of matter that is novel under section 102 and nonobvious under subsection (a) of this section shall be considered nonobvious if—
 - (A) claims to the process and the composition of matter are contained in either the same application for patent or in separate applications having the same effective filing date; and
 - (B) the composition of matter, and the process at the time it was invented, were owned by the same person or subject to an obligation of assignment to the same person.
- (2) A patent issued on a process under paragraph (1)—
 - (A) shall also contain the claims to the composition of matter used in or made by that process, or
 - (B) shall, if such composition of matter is claimed in another patent, be set to expire on the same date as such other patent, notwithstanding section 154.
- (3) For purposes of paragraph (1), the term "biotechnological process" means—

- (A) a process of genetically altering or otherwise inducing a single- or multi-celled organism to--
 - (i) express an exogenous nucleotide sequence,
 - (ii) inhibit, eliminate, augment, or alter expression of an endogenous nucleotide sequence, or
 - (iii) express a specific physiological characteristic not naturally associated with said organism;
 - (B) cell fusion procedures yielding a cell line that expresses a specific protein, such as a monoclonal antibody; and
 - (C) a method of using a product produced by a process defined by subparagraph (A) or (B), or a combination of subparagraphs (A) and (B).
- (c) Subject matter developed by another person, which qualifies as prior art only under one or more of subsections (e), (f), and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

Title 35, U.S. Code § 112 (in part)

Specification

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same, and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Title 35, U.S. Code, § 119

Benefit of earlier filing date in foreign country; right of priority

- (a) An application for patent for an invention filed in this country by any person who has, or whose legal representatives or assigns have, previously regularly filed an application for a patent for the same invention in a foreign country which affords similar privileges in the case of applications filed in the United States or to citizens of the United States, or in a WTO member country, shall have the same effect as the same application would have if filed in this country on the date on which the application for patent for the same invention was first filed in such foreign country, if the application in this country is filed within twelve months from the earliest date on which such foreign application was filed; but no patent shall be granted on any application for patent for an invention which had been patented or described in a printed publication in any country more than one year before the date of the actual filing of the application in this country, or which had been in public use or on sale in this country more than one year prior to such filing.
- (b)
 - (1) No application for patent shall be entitled to this right of priority unless a claim is filed in the Patent and Trademark Office, identifying the foreign application by specifying the application number on that foreign application, the intellectual property authority or country in or for which the application was filed, and the date of filing the application, at such time during the pendency of the application as required by the Director.
 - (2) The Director may consider the failure of the applicant to file a timely claim for priority as a waiver of any such claim. The Director may establish procedures, including the payment of a surcharge, to accept an unintentionally delayed claim under this section.
 - (3) The Director may require a certified copy of the original foreign application, specification, and drawings upon which it is based, a translation if not in the English language, and such other

information as the Director considers necessary. Any such certification shall be made by the foreign intellectual property authority in which the foreign application was filed and show the date of the application and of the filing of the specification and other papers.

- (c) In like manner and subject to the same conditions and requirements, the right provided in this section may be based upon a subsequent regularly filed application in the same foreign country instead of the first filed foreign application, provided that any foreign application filed prior to such subsequent application has been withdrawn, abandoned, or otherwise disposed of, without having been laid open to public inspection and without leaving any rights outstanding, and has not served, nor thereafter shall serve, as a basis for claiming a right of priority.
- (d) Applications for inventors' certificates filed in a foreign country in which applicants have a right to apply, at their discretion, either for a patent or for an inventor's certificate shall be treated in this country in the same manner and have the same effect for purpose of the right of priority under this section as applications for patents, subject to the same conditions and requirements of this section as apply to applications for patents, provided such applicants are entitled to the benefits of the Stockholm Revision of the Paris Convention at the time of such filing.
- (e) (1) An application for patent filed under section 111(a) or section 363 of this title for an invention disclosed in the manner provided by the first paragraph of section 112 of this title in a provisional application filed under section 111(b) of this title, by an inventor or inventors named in the provisional application, shall have the same effect, as to such invention, as though filed on the date of the provisional application filed under section 111(b) of this title, if the application for patent filed under section 111(a) or section 363 of this title is filed not later than 12 months after the date on which the provisional application was filed and if it contains or is amended to contain a specific reference to the provisional application. No application shall be entitled to the benefit of an earlier filed provisional application under this subsection unless an amendment containing the specific reference to the earlier filed provisional application is submitted at such time during the pendency of the application as required by the Director. The Director may consider the failure to submit such an amendment within that time period as a waiver of any benefit under this subsection. The Director may establish procedures, including the payment of a surcharge, to accept an unintentionally delayed submission of an amendment under this subsection during the pendency of the application.
- (2) A provisional application filed under section 111(b) of this title may not be relied upon in any proceeding in the Patent and Trademark Office unless the fee set forth in subparagraph (A) or (C) of section 41(a)(1) of this title has been paid.
- (3) If the day that is 12 months after the filing date of a provisional application falls on a Saturday, Sunday, or Federal holiday within the District of Columbia, the period of pendency of the provisional application shall be extended to the next succeeding secular or business day.
- (f) Applications for plant breeder's rights filed in a WTO member country (or in a foreign UPOV Contracting Party) shall have the same effect for the purpose of the right of priority under subsections (a) through (c) of this section as applications for patents, subject to the same conditions and requirements of this section as apply to applications for patents.
- (g) As used in this section--
 - (1) the term "WTO member country" has the same meaning as the term is defined in section 104(b)(2) of this title; and
 - (2) the term "UPOV Contracting Party" means a member of the International Convention for the Protection of New Varieties of Plants.

Title 35, U.S. Code, § 120

Benefit or earlier filing date in the United States

An application for patent for an invention disclosed in the manner provided by the first paragraph of section 112 of this title in an application previously filed in the United States, or as provided by section 363 of this title, which is filed by an inventor or inventors named in the previously filed application shall have the same effect, as to such invention, as though filed on the date of the prior application, if filed before the patenting or abandonment of or termination of proceedings on the first application or on an application similarly entitled to the benefit of the filing date of the first application and if it contains or is amended to contain a specific reference to the earlier filed application. *No application shall be entitled to the benefit of an earlier filed application under this section unless an amendment containing the specific reference to the earlier filed application is submitted at such time during the pendency of the application as required by the Director. The Director may consider the failure to submit such an amendment within that time period as a waiver of any benefit under this section. The Director may establish procedures, including the payment of a surcharge, to accept an unintentionally delayed submission of an amendment under this section.*

Please read carefully before signing the Declaration attached to the accompanying Application. If you have any questions, please contact Morgan & Finnegan, L.L.P.

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